

**REMARKS**

The Office Action dated June 27, 2006, has been received and carefully considered. In this response, claims 14 and 17 have been amended. Entry of the amendments to claims 14 and 17 is respectfully requested. Reconsideration of the outstanding rejections in the present application is also respectfully requested based on the following remarks.

I. THE ALLOWANCE/ALLOWABILITY OF CLAIMS 5-6, 8, 13-14, 16 AND 19-20

Applicant notes with appreciation the indication on page 5 of the Office Action that claims 5-6, 8, 13-14, 16 and 19-20 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, Applicants have opted to defer rewriting the above-identified claims in independent form pending consideration of the arguments presented below with respect to the rejected claims.

II. THE OBJECTION TO CLAIMS 14 AND 17

On page 2 of the Office Action, claims 14 and 17 were objected to because of several informalities.

In particular, claim 14 has been objected to because the recitation "said at least one checkpoint packets" seems to refer back to at least one checkpoint message" in claim 13. Regarding claim 17, the Examiner recommends that the term "the" be inserted before "primary egress traffic" and "backup egress traffic."

Applicant has amended each of independent claims 14 and 17 to correct to the cited informalities.

In view of the foregoing, it is respectfully requested that the aforementioned objection to 14 and 17 be withdrawn.

III. THE OBVIOUSNESS REJECTION OF CLAIMS 1-4, 7, 9-12, 15, 17, 18 AND 21-27

On page 2 of the Office Action, claims 1-4, 7, 9-12, 15, 17, 18 and 21-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Baskey (U.S. Patent No. 6,148,410) in view of Taskee (U.S. Patent No. 5,283,782). On page 4 of the Office Action, claims 3 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Baskey in view of Takase, and further in view of Adams (U.S. Patent No. 5,444,782). On page 4 of the Office Action, claims 25-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Baskey in view of Takase, and

further in view of Koodli (U.S. Patent No. 6,608,841). These rejections are hereby respectfully traversed.

As stated in MPEP § 2143, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Regarding claim 1, the Examiner asserts that Baskey discloses the step of "outputting, from the at least one backup node, backup egress traffic (see line 108)." However, Applicant respectfully submits that Baskey does not teach or suggest any feature or functionality that outputs backup egress traffic in the manner claimed. In particular, Applicant respectfully submits that Baskey does not teach or suggest the outputting of backup egress traffic regardless of whether the primary is active or has failed, as required by independent claim 1. In

fact, Baskey expressly discloses that the backup node does not output any information (i.e., route requests), unless the primary node is first determined to have failed:

One of the two FTR-CRs 100, 105 is in an active state, while the other is in a standby state. The active FTR-CR is routing requests, while the standby FTR-CR is monitoring the status of the active FTR-CR. The standby FTR-CR does not route request[s]. Illustratively, the active FTR-CR is designated as numeral 100, while the standby FTR-CR is designated as numeral 105. Both active and standby FTR-CRs 100 and 105, respectively, contain identical internal tables, such as configuration tables 107, 107' and connection tables 106, 106', and are also optionally interconnected directly by links 102, 103, 104. The two FTR-CRs 100, 105 are also interconnected indirectly through the external networks 150, 160 and the broadcast networks 170, 180. The networks 150, 160 can be directly interconnected to each other. Similarly, the broadcast networks 170, 180 can be directly interconnected to each other.

In this example, the active and standby FTR-CRs 100, 105 are connected via links 101, 108 to the broadcast networks 170, 180, which are in turn connected, via links 171, 181, to the same set or cluster of servers 190. These servers 190 can be an operating system/390 (OS/390) system, a scalable power parallel (SP/2) system, a new technology (NT) cluster, a Unix cluster, or a heterogeneous cluster of workstations/personal computers (PCS). The two FTR-CRs 100, 105 can each reach both broadcast networks 170, 180. In addition to being connected to the last hop IP routers 130, 140 through the FTR-CRs, 100, 105, the servers 190 also have independent direct routes or connections via links 191, 192, back to the last hop IP routers 130, 140.

Each FTR-CR 100, 105 is assigned a function and a state on a per Virtual Encapsulated Cluster (VEC) basis. Functionally, each FTR-CR can be either a primary or a backup. Regardless of the function, an FTR-CR can either be in the active or the standby

state. The active FTR-CR is the one which is currently distributing client requests to the cluster of servers 190. The standby FTR-CR is awaiting the failure of the active FTR-CR.

The function is assigned at configuration time, all other things being equal, an FTR-CR is configured as primary if it is the preferred active FTR-CR and backup otherwise. Configuration policy is not restricted.

The standby FTR-CR 105 monitors major activities of the active FTR-CR 100, so that the configuration and connection tables 107, 106 of both the active and standby FTR-CRs 100, 105 are synchronized. This allows the standby FTR-CR 105 to switch states and become the active FTR-CR, when the original active FTR-CR 100 fails.

See Col. 2, line 58 - Col. 3, line 39 (emphasis added).

In contrast, the claimed systems and methods output backup egress traffic regardless of whether the primary node is active or has failed. That is, the backup node will output backup egress information even if the primary node is still active and has not failed. The determination of whether the primary node has failed has no bearing on the backup node's outputting of backup egress information. The systems and methods disclosed by Baskey are different in that the standby FTR-CR will route requests only if the active FTR-CR is first determined to have failed. Accordingly, Applicant respectfully submits that Baskey does not teach or suggest the step of "outputting, from the at least one backup node, backup egress traffic," as recited in independent claim 1.

The Examiner also asserts - and Applicant agrees - that Baskey does not teach or suggest "replicating the ingress traffic to the backup node." However, the Examiner alleges that Takase discloses this feature (see, for example, col. 2, lines 10-12 and figure 13 where the ingress traffic (cells) are replicated to node 300b). Thus, the Examiner asserts, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to replicate the ingress traffic as taught by Takase in the system of Baskey in order to eliminate signal loss and reduce system recovery time.

However, Applicant respectfully submits that the combination of Baskey and Takase is improper. In particular, Applicant respectfully submits that there is no motivation to combine Baskey and Takase in the manner proposed. As argued above, Baskey clearly does not teach or suggest the claimed step of "outputting, from the at least one backup node, backup egress traffic." However, even if it did, there is no motivation to combine Baskey and Takase because Takase teaches that the cells are buffered and held in standby and are not outputted UNTIL a switchover occurs:

Conventionally, the same cells are buffered in respective switches of the primary system and the standby system. In accordance with an aspect of the present invention, a first switch (such as the switch of the standby system, for example) is used at the time of system selection as a buffer until switching,

and it is used to hold cells inputted until all of the cells stored in a second switch (such as the switch of the primary system) are outputted. That is to say, by adding system selection information, i.e., a system control bit to a received cell in the interface of the receiving side, cell inputting to the first switch of the duplex system is stopped. On the other hand, until all cells stored in the switch which is not selected are outputted, the second switch buffers cells inputted to the switch portion. This is made possible by inhibiting output by means of transmission inhibiting information after all contents of the first switch selected by the system selection information are discarded. Cells thereafter inputted are stored in the buffer of the proper switch. At the time when remaining cells in the switch selected by the system selection information are outputted, changeover to the other switch. By doing so, buffered information is outputted. Therefore, system switching can be conducted without loss of signal.

See Takase, Col. 2, lines 11 - 34.

Applicant respectfully submits that there is no motivation to combine Baskey and Takase because Takase's buffering functionality is not compatible with Baskey's systems and methods. In fact, Applicant respectfully submits that Takase teaches away from the proposed combination because, unlike Baskey, as interpreted by the Examiner, albeit improperly, the intent of Takase is to hold cells in standby and only output them when the standby becomes active. Baskey's systems and methods do not contemplate such functionality. As a result, Takase teaches away from the proposed combination. Accordingly, Applicant respectfully submits that Baskey and Takase cannot be combined as proposed by the Examiner. See MPEP § 2145 (it is

improper to combine references where the references teach away from their combination. In re Grasselli, 713 F.2d 731, 218 USPQ 769, 779 (Fed. Cir. 1983)).

Further, even if combined, Baskey and Takase would not yield the claimed invention because the combination would still not teach or suggest the step of "outputting, from the at least one backup node, backup egress traffic," as required by each of the independent claims.

For at least the reasons set forth above, Applicant respectfully submits that independent claim 1 is allowable over the cited references. The remaining independent claims (e.g., claims 9 and 17) recite subject matter that is related to independent claim 1, and are therefore allowable for reasons similar to those given above.

The dependent claims 2-4, 7-8, 10-12, 15-16, 18, and 21-27, are allowable at least by virtue of their dependency on the above-identified independent claims. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. For example, claims 25-27 expressly recite "wherein the ingress and egress traffic comprise session context information." Applicant respectfully submits that none of the cited references, alone or in combination, teach or suggest the



systems or methods of independent claims 1, 9, 17 or 22, "wherein the ingress and egress traffic comprise session context information."

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claims 14, 7-12, 15-18, and 21-27 be withdrawn.

#### IV. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

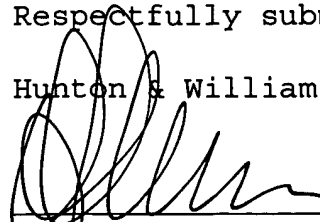
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Respectfully submitted,

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